Published December 6, 2016

PETRARCA, GLEASON,
BOYLE & IZZO, LLC
ATTORNEYS AT LAW

Illinois Supreme Court Clarifies Role Of The School Board In Tenured Teacher For Cause Dismissal Hearings After Senate Bill 7

On December 1st, the Illinois Supreme Court issued an opinion in a case eagerly anticipated by Illinois school attorneys, administrators, and school board leaders. In *Beggs v. Board of Education of Murphysboro Community Unit School District No. 186*, the Illinois Supreme Court for the first time addressed the modifications to Section 24-12 of the Illinois School Code as enacted through Senate Bill 7. The Supreme Court's analysis of the new Senate Bill 7 provisions is critical because it provides for greater deference by the courts to the decisions of school boards.

Prior to the passage of Senate Bill 7, the termination of a

19730 Governors Highway, Suite 10, Flossmoor, IL 60422-2083
Telephone: **708.799.6766** | Facsimile: 708.799.6866

tenured teacher was left to the decision of a hearing officer appointed by the Illinois State Board of Education. Senate Bill 7, however, while retaining the function of a hearing officer limits the hearing officer's role in a cause dismissal to the issuance of a "report to the school board [with] findings of fact and a recommendation as to whether or not the teacher shall be dismissed for cause." The hearing officer's report is to also include a recommendation regarding "whether the conduct at issue occurred, whether it was remediable and whether the proposed dismissal should be sustained." The school board then has forty-five (45) days to review the hearing officer's findings and recommendation and to "modify or supplement the findings of fact if, in its opinion, the findings of fact are against the manifest weight of the evidence." The decision of the school board is defined by statute as the "final administrative decision" that is subject to review by the courts.

The Illinois Appellate Court in *Beggs* determined that a local school board could not modify the factual determinations of a hearing officer unless it determined that the findings were against the manifest weight of the evidence. The findings of

the hearing officer were given significant deference by the Appellate Court on review rather than those of the school board. This interpretation by the Appellate Court essentially rendered the modifications to the School Code through Senate Bill 7 ineffective and meaningless.

The Illinois Supreme Court reversed the Appellate Court's holding regarding the deference due the hearing officer and the role of the school board in the dismissal process. In direct contravention to the Appellate Court's interpretation of the statute, the Supreme Court determined that the unambiguous provisions in the Senate Bill 7 amendments "clearly indicate[d] the legislature's intent to vest the [school board] with discretion to depart from the hearing officer's findings." The Supreme Court then further clarified that a reviewing court would not review the modifications of the board of education to determine whether or not the findings of the hearing officer were against the manifest weight of the evidence but, instead, it would accept the findings of the school board as long as they were supported by the record. This interpretation is important because it clarifies that under the revised version of Section 24-12 of the School Code, a local school board is the final

decision-maker with regard to factual determinations and is free to depart from the findings of a hearing officer.

In addition, the Illinois Supreme Court determined that the school board's final order is the order which is subject to administrative review by the courts. This means that the factual and legal determinations of the school board will be given deference by a reviewing court rather than those of the hearing officer. Ultimately, a reviewing court will review the record to determine if the factual determinations of the school board are supported by the record (i.e., against the manifest weight of the evidence) and will then determine whether the school board's decision to dismiss the teacher as based upon those facts is "arbitrary, unreasonable or unrelated to the requirements of service."[1] This standard of review is highly deferential to the decision of the school board and provides it with the deference shown by the courts to other administrative agencies.

While the Illinois Supreme Court's interpretation of Section 24-12 as modified by Senate Bill 7 unequivocally provides the local school board with more authority in the context of a tenured teacher dismissal, it should not be interpreted as an

indication that the evidentiary burdens necessary to terminate the employment of a tenured teacher have evaporated. Indeed, the teacher in *Beggs* was ultimately ordered reinstated by the Supreme Court. The Supreme Court determined that two (2) of the three (3) charges levied against the teacher were not supported by the record and were therefore not considered by the Court. In addition, the Supreme Court determined that the third charge, which the school board was able to prove, standing alone was not sufficient to warrant termination as it was deemed arbitrary, unreasonable or unrelated to the requirements of service.

As this holding teaches, the termination of tenured teachers should not be a decision which is taken lightly and should always be done in conjunction with legal advice early in the decision-making process. If your district is considering the termination of a tenured teacher, please contact one of our attorneys so that we may guide you through the process and ensure that any charges which are undertaken are sufficient to warrant termination under existing precedent.

If you have any questions, please contact one of our attorneys in Flossmoor at (708) 799-6766 or in Oak Brook at 630-928-1200.

PETRARCA, GLEASON, BOYLE & IZZO, LLC
ATTORNEYS AT LAW

[1] The Supreme Court also rejected the argument that the school board is inherently a partisan entity. Quoting previous court decisions, it stated that, "board members are assumed to be people 'of conscience and intellectual discipline, capable of judging a particular controversy fairly on the basis of its own circumstances.'"

19730 Governors Highway, Suite 10, Flossmoor, IL 60422-2083
Telephone: **708.799.6766** | Facsimile: 708.799.6866